

June 16, 2023

Reference Sub-Contract - Number 9474 Job #2200035

Memorandum of Understanding

A dispute has arisen between the parties hereto and with respect to the above-referenced Sub-Contract made on June 2, 2022 (the "Sub-Contract"). Specifically, The Cleaver-Brooks Company, Inc. ("CB") maintains it is entitled to progress payments described in its proposal for its work under the Sub-Contract, whereas Grunwald Mechanical Contractors ("Grunwald") maintains it is only obligated to issue payment to CB in accordance with pay-when-paid provisions within the Sub-Contract. As the parties hereto recognize that significant damages or dispute costs may result upon either being declared in default of the Sub-Contract and/or Grunwald's subcontract agreement with the project's general contractor, CB and Grunwald have reached the following understanding on payments to GB for its work on the project:

CB has demanded payment for its work on the project as follows:

- A total Sub-Contract price in the amount of \$3,340,402.00. (representing the original PO value) subject to a request for change order to be made per Section 19.0 Item 1-(d) of the Cleaver Brooks terms and conditions found in Cleaver Brook's proposal 07310929-Proposal-Rev-0 Dated October 4, 2021 Increasing the total Sub-Contract price to \$3,674,442.00.
- Payment of the total Sub-Contract price on the following billing schedule:
  - 10% of total Sub-Contract Value - Immediate Billing - Project to be restarted after this payment is received. Value - \$334,040.20 less the \$167,020.10 which Grunwald previously paid to CB under CB's threat to terminate the contract.
  - 25% of total Sub-Contract Value - Upon PO Placement for shell, heads, tubes of first unit
  - 25% of total Sub-Contract Value - Start of fabrication. Stabbing tubes of first unit
  - 25% of total Sub-Contract Value - Successful completion of Hydro of first unit
  - 5% of total Sub-Contract Value - First Unit Ready to ship
  - 10% of total Sub-Contract Value - Start up and acceptance NTE 120 days from ready to ship

CB advises relative to its work on the project as follows:

- The current lead-times will be approximately one year, from full release to procurement and manufacture, for the first unit with a slight stagger for units 2 and 3.

Grunwald advises relative to CB's work on the project as follows:

- As a result of the position taken by CB as outlined above, CB's suspension of work on the project effective February 27, 2023, the anticipated increased costs and project time resulting from the replacement of CB as the boiler manufacturer on the project, and to mitigate the potential significant consequences associated with either parties' default under the project's governing contracts, Grunwald will make payments to CB for its work on the project in the amounts and pursuant to the schedule outlined above.

Grunwald and CB each agree and acknowledge as follows:

- Grunwald and Cleaver Brooks continue to reserve all of their rights arising under their original Sub-Contract and neither waives any other rights available to them by the original Sub-Contract by their execution hereof and/or their performance in accordance herewith.
- The schedule will officially start when this Contract Amendment is signed and the initial 10% of the Sub-Contract price is received.
- All other aspects of the original Sub-Contract attached hereto remain intact.

The Cleaver-Brooks Company Inc.



Aaron Fink

VP of National Sales

Dated 6/28/23

B&K Mechanical Contractors, LLC  
d/b/a Grunwald Mechanical Contractors and Engineers

Dan Ridley  
Project Manager  
Dated 6/28/2023

Dan Ridley

Digitally signed by Dan Ridley  
DN: cn=US, E=dr Ridley@grunwald1.com,  
O=Grunwald Mechanical Contractors and  
Engineers, OU=Project Management,  
CN=Dan Ridley  
Date: 2023.06.28 09:30:38-0500